

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

THE UNITED STATES OF AMERICA *

*

v.

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*

CASE NO. 23-4600

EGHOSASERE

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AVBORAYE-IGBINEDION

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**GOVERNMENT’S MOTION FOR LEAVE TO FILE SUPPLEMENTAL
APPENDIX**

Comes now the United States of America, by its undersigned attorneys, and hereby moves this Honorable Court for leave to file a supplemental appendix consisting of two plea agreements which were included as trial exhibits in the case *sub judice*, and in support whereof states as follows:

1. On February 2, 2024, Defendant Eghosasere Avboraye-Igbinedion filed his opening brief in this matter. *See* Appellate ECF No. 18, 19. The sole issue raised on appeal is whether the District Court erred when it determined the loss amount foreseeable to Mr. Igbinedion was more than 1.5 million dollars but less than 3.5 million dollars.

2. When the Defendant filed his opening brief, he filed a joint appendix containing documents as agreed upon by the parties that were pertinent to this appeal. Appellate ECF No. 20.

3. In preparing the joint appendix, the Government did not propose including the plea agreements for two cooperating witnesses that contain information involving the issue raised by the Defendant. One of the plea agreements is a part of the District Court Docket referenced in the Joint Appendix (JA 1-20). The other document is referenced in the related case involving the other witness: *United States v. McArnold Charlemagne*, RDB 19-0567. There is no dispute as to their accuracy. There is no dispute that they provide context to the historical record relevant to the sole issue being raised on appeal. Given these facts, the Government respectfully requests that these plea agreements be allowed into the appendix for the Court's convenience and assistance in deciding this appeal inasmuch as they are important to a full understanding of the issues on appeal. *Cf.* 4th Cir. Local Rule 30(b).¹

4. The Defendant does not oppose the inclusion of these documents.

5. The Government believes these are necessary because they include statements of facts detailing the amount of loss to victims that was agreed to by two co-conspirator witnesses: Amaya English and McArnold Charlemagne. These plea agreements were also included as exhibits in the trial against the Defendant. The sole

¹ The Government does not request that the Defendant be ordered to re-file a corrected joint appendix with these additional documents. *See* 4th Cir. Local Rule 30(c). Given the limited number of pages contained in the supplemental appendix, the Government can more easily file on its own the supplemental appendix than requiring the re-filing and re-service of a corrected joint appendix.

issue raised by the Defendant is the loss amount foreseeable to Mr. Igbiniedion. Ms. English and Mr. Charlemagne both agreed that the amount of loss foreseeable to them was greater than \$1,500,000 and therefore their plea agreements directly relate to the issue raised by the Defendant. Additionally, the District Court considered the loss figures from other co-conspirators during the sentencing hearing of the Defendant.

WHEREFORE, the United States of America respectfully requests that this Honorable Court GRANT the Government's unopposed motion and permit the attached supplemental appendix in consideration of this appeal.

Respectfully submitted,

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United States Attorney

By: _____/s/_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on February 21, 2024, undersigned counsel electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF user:

Alfred Guillaume, Esquire
1350 Connecticut Ave. NW, Suite 308
Washington, D.C. 20036

By: /s/
Christine Goo
Assistant United States Attorney